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tended that certain contracts for compounding crimes were sanctioned and authorized by a federal statute, the Supreme Court of Wisconsin refused to recognize the claim. *Wight v. Rindskopf*, 43 Wis. 344.

The distinctions made in the English decisions do not seem to rest on a firm natural basis, and the trend of the cases tends to infuse greater uncertainty into this interesting branch of private international law than already exists. The American courts are more positive and certain. One advantage of the English rule would lie in the fact that it removes limitations and widens the scope of comity between independent jurisdictions.

RECENT IMPORTANT DECISIONS

ACKNOWLEDGMENT—WHO MAY TAKE—STOCKHOLDER.—An acknowledgment of a mortgage given to a loan company was taken by the president, who was the chief executive officer and a stockholder in the company and who conducted the negotiations leading up to the loan. *Held*, that the acknowledgment was valid. *Keene Guaranty Savings Bank v. Lawrence* (1903), — Wash. —; 73 Pac. 680.

On the question of a stockholder's competency to take an acknowledgment of a deed or mortgage given to the corporation see *Gilbert v. Garber* (1903), — Neb. —, 95 N. W. 1030, and *Read v. Toledo Loan Co.* (1903), — Ohio —, 67 N. E. Rep. 729, which are commented on in II MICH. LAW REV., p. 138.

AGENCY—NOTICE TO AGENT—LIABILITY OF PRINCIPAL.—The plaintiff, a surety on the bond of C, the local agent of an elevator company, wrote to M, the general manager of the elevator company, in regard to the gambling habits of C and asked M to have C execute a counter bond, with sureties, to the plaintiff. M did as he was directed and sent the bond to the plaintiff. C embezzled the funds of the elevator company and the plaintiff paid the amount of his liability on the bond of C. In an action against the sureties on the counter bond the court instructed the jury that in procuring the counter bond M was plaintiff's agent, and, if M knew at the time of the execution of the bond of the embezzlement of C, such knowledge was imputable to the plaintiff; and that if M failed to disclose to the defendants the embezzlement of C, the defendants, as a matter of law, were not liable. *Held*, error. *Aetna Indemnity Co. v. Schroeder et al.* (1903), — N. D. —, 95 Northwestern 436.

The court gives as reasons for the holding: (1) M's interest in the transaction was antagonistic to the interest of the plaintiff. In such cases the law does not presume disclosure by the agent to the principal. *MICHEM ON AGENCY*, § 723; *Wickersham v. Chicago Zinc Co.*, 18 Kans. 481, 26 Am. Rep. 784; *American Surety Co. v. Paullly*, 170 U. S. 133; (2) M was merely a nominal agent, performing ministerial duties for the plaintiff. To such agents the rule of constructive notice does not apply. *POMEROY EQ. JURISP.*, vol. 2, § 668; *Anketel v. Converse*, 17 Ohio St. 11, 91 Am. Dec. 115; *Wyllie v. Pollen*, 3 DeGex, J. & S., 595; *Hoppock v. Johnson*, 14 Wis. 328.

The doctrine that the knowledge of the agent concerning matters within the scope of his authority is imputable to the principal has undergone considerable development. The older rule, which formerly prevailed in England and has found some support in America, was based upon the theory of the legal identity of the principal and the agent, and was limited to knowledge or

notice acquired during the agency. *Preston v. Tubbin*, 1 Vern. 286; *Houseman v. Girard, etc.*, 81 Pa. St. 256; *McCormick v. Wheeler*, 36 Ill. 114, 85 Am. Dec. 388; *Willis v. Vallette*, 4 Metc. (Ky.) 186. The more modern rule, which now prevails in England and in many of the States, is that it is the duty of the agent to make full disclosure to his principal. *Dresser v. Norwood*, 17 Com. Bench (N. S.) 466; *Rolland v. Hart*, L. R. 6 Ch. App. 678; *The Distilled Spirits*, 78 U. S. 11 Wall. 356; *Hunter v. Watson*, 12 Cal. 377; *Hart v. Bank*, 33 Vt. 252; *Day v. Wamsley*, 33 Ind. 145.

The rule applies to corporations and their officers. *Bridge Co. v. Phoenix Bank*, 3 N. Y. 156; *Nat'l Bank v. New Milford*, 36 Conn. 93; *Hoover v. Wise*, 91 U. S. 308; *Akers v. Bowman*, 10 L. R. A. 705 and notes. Notice to stockholder as such is not notice to the corporation. *Bank v. Martin*, 1 Metc. (Mass.) 294. For limitations of the rule see *Miller v. Ill. Cent. R. R. Co.*, 24 Barb. 332; *Getman v. Bank*, 23 Hun 498; *Holden v. Bank*, 72 N. Y. 286.

The question of constructive notice frequently arises in insurance cases. Insurance companies often try to avoid the rule. See *German Insurance Co. v. Schader* (1903). — Neb. —, 93 N. W. 972, 60 L. R. A. 918 for collection of authorities.

CARRIERS—EXPRESS MESSENGERS—CONTRACTS EXEMPTING FROM LIABILITY—VALIDITY—PUBLIC POLICY.—The plaintiff on taking service with the American Express Co., as messenger, had contracted to assume all risk of accident whether resulting in death or injury, which he might sustain in the course of his employment, because of the "gross or other negligence" of any corporation with which the express company might contract for the transportation of its business. The plaintiff further agreed to release all right of action against such corporation resulting from its negligence, and stipulated, that his agreement with the express company should inure to the benefit of such corporation. While riding in the express car attached to one of defendant's passenger trains, the plaintiff suffered injury, as a result of a collision, brought about by the negligence of defendant. In an action for damages, *Held*, the contract relieving the railroad company from liability was valid and not against public policy. *Peterson v. Chicago & N. W. Ry. Co.* (1903), — Wis. —, 96 N. W. Rep. 532.

The contracts of a common carrier exempting itself from responsibility for negligence toward a passenger, have generally been held void as contravening public policy. See COOLEY, TORTS, (2d ed.) pp. 825-827; BRACH CONTRIB. NRG. (2d ed.) §165; *Railroad Co. v. Lockwood*, 17 Wal. 357; *Hart v. Railroad Co.* 112 U. S. 331, 5 Sup. Ct. 151. It has also been held, generally, that an express messenger, in charge of express matter, is a passenger for hire. *Fordyce v. Jackson*, 56 Ark. 594, 20 S. W. Rep. 528; *Brewer v. Railroad Co.*, 124 N. Y. 58; *Penna. Co. v. Woodworth*, 26 Ohio St. 585. See also, *Jones v. Railroad Co.*, 125 Mo. 666, 28 S. W. Rep. 883. Postal clerks, whose relation to a railroad company is analogous to that of the express messenger are held passengers for hire. *Mellor v. Railroad Co.*, 105 Mo. 445-460, 16 S. W. Rep. 849; *Arrowsmith v. Railroad Co.*, 57 Fed. Rep. 165. Two questions were presented by the principal case upon which the decision depended: First, is a railroad company a private or common carrier of a common carrier; and second, is an express messenger a passenger for hire? It was held that under such circumstances the railroad company was a private carrier of the express company, and that the express messenger was not a passenger. Both questions were answered in accordance with the decision in *Voight v. B. & O. S. W. Ry. Co.*, 176 U. S. 499. See also, *Blank v. Illinois Central Co.*, 182 Ill. 332; *Railroad Co. v. Keefer*, 146 Ind. 21, 34. The decision of the principal case is clearly opposed to the weight of authority.